

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARK A. SMITH,

Plaintiff,

No. CIV S-10-0843 DAD P

vs.

JACK VOGNSEN,

Defendant.

ORDER

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Plaintiff, who is civilly committed under California law, proceeding pro se, has filed a civil rights action pursuant to 42 U.S.C. § 1983, together with a request to proceed in forma pauperis. In light of 1996 amendments to 28 U.S.C. § 1915, this court will not rule on plaintiff's request to proceed in forma pauperis.

The federal venue statute requires that a civil action, other than one based on diversity jurisdiction, be brought only in “(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b).

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1 In this case, the defendant(s) are located and the claim arose in San Francisco,  
2 which is located in the Northern District of California. Therefore, plaintiff's claim should have  
3 been filed in the United States District Court for the Northern District of California. In the  
4 interest of justice, a federal court may transfer a complaint filed in the wrong district to the  
5 correct district. See 28 U.S.C. § 1406(a); Starnes v. McGuire, 512 F.2d 918, 932 (D.C. Cir.  
6 1974).

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. This court has not ruled on plaintiff's request to proceed in forma pauperis; and  
9 2. This matter is transferred to the United States District Court for the Northern  
10 District of California.

11 DATED: April 22, 2010.

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14 DALE A. DROZD  
15 UNITED STATES MAGISTRATE JUDGE

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